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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

## LOK SABHA

The folloinwg Bill was introduced in Lok Sabha on the 21st January, 1985:—

BILL NO 7 OF 1985

*A Bill to amend the Foretgn Contribution (Regulation) Act 1976.*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Foreign Contribution (Regulation) Amendment Act, 1985.

(*2*) The provisions of this Act, other than sections 4 and 6, shall be deemed to have come into force on the 20th day of October, 1984, and sections 4 and 6 shall be deemed to have come into force on the 1st day of January, 1985.

Amendment of section 2.

49 of 1976.

2. In section 2 of the Foreign Contribution (Regulation) Act, 1976 (hereinafter referred to as the principal Act), in sub-section (*1*),—

(*a*) in clause (c), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any

person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause;";

(*b*) for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "political party" means—

(*i*) an association or body of individual citizens of India—

(*1*) which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being; or

(*2*) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(*ii*) a political party mentioned in column 1 of Table I to the notification of the Election Commission of India No. 56/J&K/84, dated the 27th September, 1984, as in force for the time being;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*1*), in clause (*c*), for the words "Government servant", the words "Judge, Government servant" shall be substituted.

Amendment of section 6.

4. In section 6 of the principal Act, for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"**(*1*) No association [other than an organisation referred to in Sub-section (*1*) of section 5] having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such association,—**

**(*a*) registers itself with the Central Government in accordance with the rules made under this Act; and**

**(*b*) agrees to receive such foreign contributions only through such one of the branches of a bank as it may specify in its application for such registration,**

**and every association so registered shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it:**

**Provided that where such association obtains any foreign contribution through any branch other than the branch of the bank through which it has agreed to receive foreign contribution or fails**

to give such intimation within the prescribed time or in the prescribed manner, or gives any intimation which is false, the Central Government may, by notification in the Official Gazette, direct that such association shall not, after the date of issue of such notification, accept any foreign contribution without the prior permission of the Central Government.

(1A) Every association referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and shall also give, prior permission time and in such manner as may be prescribed, as intimation to the Central Government as to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it."

Amendment of section 9.

5. In section 9 of the principal Act, in the opening portion, for the words "Government servant", the words "Judge, Government servant" shall be substituted.

Amendment of section 10.

6. In section 10 of the principal Act, in clause (*b*), for the words and figure "require any association, specified in section 6", the words, brackets and figures "without prejudice to the provisions of sub-section (1) of section 6, require any association specified in that sub-section" shall be substituted.

Amendment of section 14.

7. In section 14 of the principal Act, for the words and figure "class I post", at both the places where they occur, the words and letter "Group A post" shall be substituted.

Insertion of new section 15A.

8. After section 15 of the principal Act, the following section shall be inserted, namely:—

Audit of accounts.

"15A. Where any organisation or association fails to furnish any returns under this Act within the time specified therefor or the returns so furnished are not in accordance with law or if, after inspection of such returns, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, that Government may, by general or special order, authorise such gazetted officer, holding a Group A post, as it may think fit, to audit any books of account kept or maintained by such organisation or association, as the case may be, and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act."

Insertion of new section 25A.

**9.** After section 25 of the principal Act, the following section shall be inserted, namely:—

Prohibition of acceptance of foreign contribution.

"25A. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under sub-section (*1*) of section 23 or section 25, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of three years from the date of the subsequent conviction.".

Repeal and saving.

**10.** (*1*) The Foreign Contribution (Regulation) Amendment Ordinance, 1984, is hereby repealed. 12 of 1984.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

The Foreign Contribution (Regulation) Act, 1976, seeks to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain categories of persons or associations. To remove certain inadequacies and practical difficulties in the administration of the Act, a Bill to amend the Act was introduced in the Rajya Sabha in May, 1984. The Bill was passed by the Rajya Sabha with certain amendments. But it could not be passed by the Lok Sabha before it adjourned at the end of its Monsoon Session and the Bill has now lapsed. As it was considered necessary to give effect to the provisions of the Bill as passed by the Rajya Sabha urgently, the Foreign Contribution (Regulation) Amendment Ordinance, 1984, was promulgated by the President on the 20th October, 1984. The said Ordinance, *inter alia*, made the following amendments in the Act, namely:—

(i) The definition of "foreign contribution", as contained in the Act, included only the donation, delivery or transfer made by any foreign source. It did not include donation or contribution received by an organisation from another organisation from out of foreign contribution received by the latter organisation. The definition was enlarged to include such contributions also for the purpose of tracing the utilisation of foreign contribution down the line.

(ii) The definition of "political party", as contained in the Act, did not include political parties in the State of Jammu and Kashmir and political parties which are not covered by the Election Symbols (Reservation and Allotment) Order, 1968. The Ordinance amended this definition to include such political parties also.

(iii) Section 6(1) of the Act provided that every association having a definite cultural, economic, educational, religious or social programmes, may receive foreign contribution, but was required to send intimation regarding such receipt to the Central Government within such time and in such manner to be prescribed by the rules made under the Act. It had been observed that a number of associations had not sent such intimation. In order to effectively monitor the receipt of foreign contribution, this sub-section was amended to provide that associations referred to therein shall accept foreign contribution only after they are registered with the Central Government specifically for the purpose and accept such contributions only through a specified branch of a bank. They would, however, be required to give, within such time and in such manner as may be prescribed, intimation to the Central Government as to the amount of foreign contribution received by them, the source from which and the manner in which such foreign contribution was received by them, etc. Where any registered association does not accept foreign contribution through the specified branch of a specified bank or does not submit intimations, etc., in time, the Central Government has been empowered to direct that such association shall not accept

foreign contribution without the prior permission of the Central Government. A new sub-section (1A) had also been included in this section to provide that an association not so registered with the Central Government shall obtain prior permission of the Central Government before accepting any foreign contribution and also give intimation to the Central Government as to the amount of contribution received by it.

(iv) The Act only enabled the Central Government to inspect the accounts of certain persons or associations. It did not provide for any power to audit the accounts of any organisation if it is considered necessary to do so. The Ordinance amended the Act by inserting a new section 15A, to take specific power to audit the accounts of certain persons, organisations or associations, if the prescribed returns are not furnished in time by such persons, organisations or associations or the returns so furnished by them are not in accordance with law or their scrutiny gives room for suspicion that the provisions of the Act have been contravened.

(v) A new section 25A had also been inserted in the Act to provide that where any person is convicted of an offence relating to the acceptance or utilisation of foreign contribution for a second time, he shall be prohibited from accepting any foreign contribution for a period of three years from the date of the second conviction.

2. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
*The 15th January*, 1985.

S. B. CHAVAN.

## FINANCIAL MEMORANDUM

Clause 4 of the Bill which seeks to substitute sub-section (1) of section 6 of the Foreign Contribution (Regulation) Act, 1976, requires every association having a definite economic, cultural, educational, religious or social programme, *inter alia*, to register itself with the Central Government. This provision will generate considerable workload for the handling of which additional staff would be required. For the effective monitoring of the receipt and intimation of foreign contribution, the monitoring cell of the Ministry of Home Affairs will be required to be adequately strengthened. For the prosecution of cases of defaulting associations, a separate unit in the C.B.I. will be required to be established. The total estimated expenditure on the employment of staff on this account is likely to be of the order of Rs. 11 lakhs per annum.

2. Clause 8 of the Bill, which seeks to insert a new section 15A in the Act, enables the Central Government to audit any books of account kept or maintained by any organisation or association, if such organisation or association fails to furnish any returns under the Act within the time specified therefor or the returns so furnished, are not in accordance with law or, after inspection of such returns, the Central Government has any reasonable cause to believe that any provision of the Act has been, or is being, contravened. Such audit will be conducted by a gazetted officer of the Government holding a Group A post. This provision also will involve some expenditure from the Consolidated Fund of India. But it is not possible at this stage to precisely estimate the expenditure on this account as that would depend on the number of organisations which do not submit returns or whose returns are not in accordance with law and in respect of which Government would consider that the audit of their accounts is necessary.

3. The Bill does not involve any other expenditure of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to substitute sub-section (1) of section 6 of the Foreign Contribution (Regulation) Act, 1976, by new sub-section (1) and sub-section (1A). The new sub-section (1), *inter alia*, empowers the Central Government to specify by rules the manner in which an association referred to in that sub-section shall register itself with the Central Government before accepting any foreign contribution. The said association is also required to give, within such time and in such manner as may be prescribed by rules made under the Act, an intimation to the Central Government as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it. The new sub-section (1A) requires every association referred to in the new sub-section (1) of section 6 of the Act which is not registered with the Central Government under that sub-section to accept foreign contribution only after obtaining the prior permission of the Central Government and to give, within such time and in such manner as may be specified by rules, an intimation to the Central Government regarding the details of the foreign contribution received by it.

2. The matters with respect to which rules may be made are matters of administrative detail or procedure. The delegation of legislative power is, therefore, normal in character.

## MEMORANDUM EXPLAINING THE MODIFICATIONS CONTAINED IN THE BILL TO REPLACE THE FOREIGN CONTRIBUTION (REGULATION) AMENDMENT ORDINANCE, 1984

Apart from replacing the aforesaid Ordinance, the Bill makes a change in the reference to the notification of the Election Commission as contained in new clause (g)(ii) of section 2 of the Foreign Contribution (Regulation) Act [Clause 2(b) of the Bill], to refer to the new notification which has superseded the earlier notification referred to in the corresponding provisions of the Ordinance.

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SUBHASH C. KASHYAP,
Secretary-General.

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